

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Office Action mailed January 11, 2007. In that Office Action, claims 1-38 were examined, and all claims were rejected. More specifically, claims 1-18, 21-36 and 38 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter; claims 1-18, 21-24 and 35-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by Alaluf (US 2004/0230958); claims 28-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Vasilik et al. (USPN 6922827); and claims 19, 25-27, and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alaluf in view of Vasilik et al.. Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested.

In this Response, claims 1-18 and 21-38 have been amended and no claims have been canceled or added.

Notice of Incorrect Correspondence Address

The Office Action was delivered to Marshall, Gerstein & Borun LLP. Applicants note that Merchant & Gould not Marshall, Gerstein & Borun LLP is not prosecuting this application. In the future, please address all correspondence to:

Attention of Timothy B. Scull
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Minneapolis, MN 55402-0903

Claim Rejections – 35 U.S.C. § 101

Claims 1-18, 21-36 and 38 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-18 and 21-34 have been amended to recite one or more processor-accessible storage media comprising processor-executable instructions. These claims are statutory subject matter under § 101 because a storage media is a tangible, physical structure. Additionally, claim 7 has been amended so that it no longer recites transmission media. However, Applicant's note that they reserve the right to pursue transmission media claims in the future. Finally, claims 35-38 have been amended to recite a

computer readable medium encoding an arrangement for software build extensibility. Computer readable medium claims are statutory under § 101. *In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994). In light of these amendments, the Examiner's § 101 rejection is now moot.

Claim Rejections – 35 U.S.C § 102

Claims 1-18, 21-24 and 35-38

Claims 1-18, 21-24 and 35-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by Alaluf (US 2004/0230958). Applicants respectfully traverse the § 102(e) rejections because either the Examiner has failed to state a *prima facie* case of anticipation or the current amendments to the claims now render the Examiner's arguments moot. A *prima facie* case of anticipation can be met only where the reference teaches each and every aspect of the claimed invention. See MPEP §§ 706.02 & 2136. Under 35 U.S.C. § 102, a reference must show or describe each and every element claimed in order to anticipate the claims. *Verdegaal Bros. v. Union Oil Co. of California* 814 F.2d 628 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference"). Specifically, Alaluf fails to teach or suggest associating a build provider with each file of the plurality of files, as recited in claim 1.

The present embodiment recognizes that the proliferation of high level programming languages has lead to a large number of different file types. Furthermore, there is an increasing demand that these file type be interoperable. The present embodiment provides a technique for handling different existing file types while providing the flexibility to handle new file types as they are developed. (Specification, p. 1-2). This can be accomplished through the use of build providers that are associated with the different file types, where each build provider has the functionality to properly interact with its specific file type. This provides the advantage of extensibility. Instead of developing a new compiler platform capable of handling a new file type, a developer need only define a new build provider capable of handling the new file type. This build provider can then be plugged into an existing framework.

Alaluf relates to a compiler and software for compiling intermediate language bytecodes into Java bytecodes. (Alaluf, Abstract). Specifically, Alaluf provides a compiler and software product for compiling Microsoft intermediate language (MSIL) into Java bytecodes that can be executed on a Java Virtual Machine. (Alaluf, [0020]). Alaluf accomplishes this by using the

Microsoft .Net platform to compile source code into MSIL. After the .Net platform generates the MSIL, Alaluf provides a compiler that compiles the MSIL into Java bytecodes and outputs Java class files. The java bytecodes are capable of executing on a Java Virtual Machine. (Alaluf, [0033]-[0034]).

However, Alaluf does not teach or suggest associating a build provider with each file of the plurality of files. Alaluf instead teaches the use of a compiler to recompile MSIL into Java bytecodes. At no point is a plurality of build providers associated with a plurality of files. Indeed, Alaluf teaches a compiler that is capable of taking a single file type, the MSIL file, and compiling it into Java bytecodes. Furthermore, Alaluf lacks the benefits of the present embodiment. Because Alaluf does not make use of build providers it cannot be easily extended to work with new file types. Indeed, Alaluf only works with MSIL files – a new compiler would have to be developed to compile other types of files into Java bytecodes. Thus Alaluf lacks the extensibility of the present embodiment.

For at least the foregoing reasons, Alaluf fails to teach or suggest associating a build provider with each file of the plurality of files. Thus, claim 1 is allowable over the prior art. Similar limitations are included in independent claim 8 (creating an associated build provider for each associated file), independent claim 21 (a build provider that is tailored for a particular file type), and independent claim 35 (associating a build provider with each respective file). For at least the same reasons, independent claims 8, 21, and 35 are also allowable. All other claims, specifically claims 2-7, 9-18, 22-24, and 36-38 depend from either claim 1, 8, 21, or 35 and thus, for at least the same reasons as stated above, are allowable over the cited reference. Applicants respectfully request that the Examiner issue a notice of allowance for these claims.

Claims 28-32

Claims 28-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Vasilik et al. (USPN 6922827). Applicants respectfully traverse the § 102(e) rejections because either the Examiner has failed to state a *prima facie* case of anticipation or the current amendments to the claims now render the Examiner's arguments moot. A *prima facie* case of anticipation can be met only where the reference teaches each and every aspect of the claimed invention. See MPEP §§ 706.02 & 2136. Under 35 U.S.C. § 102, a reference must show or describe each and every element claimed in order to anticipate the claims. *Verdegaal Bros. v. Union Oil Co. of*

California 814 F.2d 628 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference"). Specifically, Vasilik fails to teach or suggest a method that is adapted to indicate a language used by the code that is part of the file.

Vasilik relates to an application generation/regeneration process. The process in Vasilik first receives a request for an application. Upon receiving a request, the process locates the application and the source files used in generating the application. It next determines whether the application exists and if so whether the application needs to be rebuilt. If the application does not exist or if it needs to be rebuilt, the process compiles an executable of the application and executes it. (Vasilik, col. 4, Line 58 – col. 5, Line 16).

However, Vasilik fails to teach or suggest a method that is adapted to indicate a language used by the code that is part of the file. At no point do the cited portions of the reference make a determination as to the type of language that is used by part of the code. Indeed, the only determinations Vasilik makes are whether the application has been previously compiled, and if so whether there have been any modifications to the code that would require a recompilation of the application.

For at least this reason, Vasilik fails to teach or suggest all of the limitations of claim 28. Furthermore, for at least the same reason, Vasilik fails to teach of the similar limitation of independent claim 29 (a particular file having a particular code). All other claims, specifically claims 30-32 depend from either independent claim 28 or 29 and, thus, are allowable for at least the same reasons. For at least the forgoing reasons, claims 28-32 are allowable over the cited reference. Applicants respectfully request that the Examiner issue a notice of allowance for these claims.

Claim Rejections – 35 U.S. C. § 103

Claims 19, 25-27, and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alaluf in view of Vasilik et al. Applicants respectfully traverses these rejections as the Office Action establishes a prima facie case of obviousness in light of the references. A prima facie case of obviousness can only be established when all of the following requirements are met: (1) there must be some suggestion or motivation in the references themselves to combine the references; (2) there must be a reasonable expectation of success; and (3) the reference or

combination of references must teach or suggest all the claim limitations. See MPEP §§ 706.02(j) and 2143. Specifically, the cited references fail to teach or suggest all of the claim limitations.

With regard to claim 19, the cited references fail to teach or suggest a second build provider adapted to handle files of the second file type. As noted above, Alaluf fails to teach or suggest associating a build provider with a specific file type. Furthermore, the combination of Vasilik with Alaluf fails to compensate this deficiency. Thus, the combination of Alaluf and Vasilik fails to teach or suggest all of the limitations of claim 19. Furthermore, independent claim 25 includes similar limitations (the respective build provider adapted to generate code from files of the respective file type). Thus, for at least the same reasons, the combination of Alaluf and Vasilik fails to teach or suggest all of the limitations of independent claim 25. Claims 26-27 and 34 depend from claim 25 and, thus, are allowable for at least the same reason. For at least the forgoing reasons, Applicants believe that the claims are allowable. Applicants respectfully request that the Examiner issue a notice of allowance for all claims.

Conclusion

This Amendment fully responds to the Office Action mailed on January 11, 2007. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional

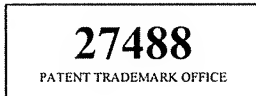
Application No. 10/6927654


issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted

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Dated: April 11, 2007





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